

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 8108 of 2015 (K)

PETITIONER:

K.K.UMMER, PROPRIETOR,
M/S.AYSHA SAW MILL, ALLAPARA P.O.,
KANDANTHARA, PERUMBAVOOR - 683 547.

BY ADVS.SRI.P.THOMAS GEEVERGHESE
SRI.TONY THOMAS (INCHIPARAMBIL)

RESPONDENTS:

1. VENGOLA GRAMA PANCHAYAT
REP. BY ITS SECRETARY, VENGOLA,
PERUMBAVOOR - 683 554.
2. SECRETARY, VENGOLA GRAMA PANCHAYAT,
VENGOLA, PERUMBAVOOR - 683 554.

BY ADV. SRI.C.A.NAVAZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 8108 of 2015 (K)

PETITIONER'S EXHIBITS:

EXT. P1- TRUE COPY OF PANCHAYAT LICENSE NO.149/14-15 DATED 17.6.2014 FOR THE YEAR 2014-2015 ALONG WITH ENGLISH TRANSLATION

EXT. P2- TRUE OUT COPY OF INTERIM ORDER OF SUPREME COURT DATED 23.4.2012 OBTAINED IN SLP NO.22856 OF 2011

EXT. P3- TRUE COPY OF ORDER DATED 21.4.2014 IN CIVIL APPEAL NO.4858 OF 2014 OF SUPREME COURT OF INDIA

EXT. P4- TRUE COPY OF APPLICATION DATED 6TH NOVEMBER 2014 SUBMITTED BY THE PETITIONER ALONG WITH ENGLISH TRANSLATION

EXT. P5- TRUE COPY OF ORDER NO.A3-2144/14 DATED 9.3.2015 OF THE VENGOLA GRAMA PANCHAYATALONG WITH ENGLISH TRANSLATION

EXT. P6- TRUE COPY OF LOCENSE NO.185/2013 FOR SAW -MILL OR OTHER WOOD BASED INDUSTRIES ISSUED ON 20.4.2013

EXT. P7- TRUE COPY OF CONSENT TO OPERATE (RENEWAL) OF THE POLLUTION CONTROL BOARD IN FILE NO. PCB/EKM/IAO - 465/2010

EXT. P8- TRUE COPY OF NO-OBJECTION CERTIFICATE NO.A740/14 OF ASST.DIVISIONAL OFFICER, FIRE AND RESCUE DATED 10.2.2014

EXT. P9- TRUE COPY OF APPROVAL NO.LDis(C2)-1868/14 DATED 28.2.2014 OF THE DISTRICT MEDICAL OFFICER

EXT. P10- TRUE COPY OF CERTIFICATE OF THE DEPARTMENT OF FACTORIES AND BOILERS DATED 27.3.2014

EXT. P11- TRUE COPY PART II ACKNOWLEDGEMENT OF INDUSTRIES DEPARTMENT DATED 24.6.2008

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S.TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.8108 of 2015 K

Dated this the 19th day of March, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioner, who runs a saw-mill within the territorial limits of the respondent Grama Panchayat, filed Exhibit P4 application seeking permission to expand the production capacity of the saw-mill by installing additional machinery. The respondent Grama Panchayat, in turn, rejected the said application through Exhibit P5 holding that, in terms of the decision rendered by the Honourable Supreme Court in Civil Appeal No. 4854/2014 dated 21.04.2014, this Court has to adjudicate

the matters of this nature and that the petitioner should get favourable orders from this Court. Aggrieved thereby, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner has contended that the petitioner has all the requisite permissions from the authorities concerned to enable the respondent Grama Panchayat to process the petitioner's Exhibit P4 application. He has also submitted that in Exhibit P5 order of rejection, the respondent Grama Panchayat has misconstrued the direction of the Honourable Supreme Court.

4. The learned counsel for the respondent Grama Panchayat has fairly admitted that the Honourable Supreme Court has never intended its direction in a particular case to operate in all future cases, to mean that any sort of application for whatever purpose should first be considered by this Court even before the authorities could exercise

their statutory power.

5. He has further submitted that the respondent Grama Panchayat is willing to consider petitioner's Exhibit P4 application in accordance with law.

6. Indeed, the order of the Honourable Supreme Court dated 21.04.2014, referred to in Exhibit P5, does not intend to curtail any statutory power of the authorities; in other words, the direction cannot be read to mean that all the applications involving any saw-mill should be first considered by this Court before the authorities could exercise their statutory power. In my considered view, the order has been rendered by the Honourable Supreme Court in a particular matter, which is interlocutory in nature, by holding that the core issue involved in those proceedings is required to be adjudicated by this Court, since the writ petition is pending before it.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel, this Court, without advertting to the merits of the matter, disposes of the writ petition with a direction to the respondent to consider Exhibit P4 application of the petitioner, in accordance with law and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of two weeks from the date of receipt of a copy of this judgment.

Dama Seshadri Naidu, Judge

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